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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-sixth session

SUMMARY RECORD OF THE 17th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 12 August 1994, at 3 p.m.

Chairman: Mrs. ATTAH

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The meeting was called to order at 3.10 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1994/14 and Add.1, 15, 16, 43 and 45; E/CN.4/Sub.2/1994/NGO/5, 9, 11, 12, 13, 14 and 22).

1. Mr. GREENWALD (International League for Human Rights) said that there were two points he wished to emphasize regarding the situation in East Timor. The first was that human rights continued to be grossly and systematically violated in an atmosphere of fear caused by the still large military presence and the savage treatment of those who opposed Indonesia's unlawful occupation.

2. The second was that the serious and systematic human rights violations in East Timor could not be seen apart from their root cause: the denial of East Timorese self-determination. All human rights were in jeopardy in East Timor because a fundamental right, that of a non-self-governing territory freely to choose its political status, had not been realized. Only when East Timor's juridical standing was rooted in the wishes of its people would a Government be able to rule without repression and the violation of human rights. His organization consequently urged the Sub-Commission to encourage all the parties to the dispute to engage in a process that would lead to an internationally supervised referendum on East Timor's future.

3. In the absence of a judicial system, a constitution and an established Government, no authority in Afghanistan had been able to guarantee the human rights principles enshrined in international instruments. In the course of a recent fact-finding mission to that country, his organization had documented the human rights abuses occurring there. Arbitrary deaths as a result of indiscriminate attacks were a daily occurrence as a result of the indiscriminate use of heavy long-range rocketing, aerial bombardment and cluster bombs. In addition, an estimated 20 million land mines had been laid throughout the country, not only for the military purpose of halting the enemy but also to terrorize, maim and kill the civilian and refugee populations.

4. The right to self-determination was blatantly ignored. There had been numerous accounts of torture and ill-treatment such as the amputation of hands or feet, flogging and stoning to death. The abuse and rape of women had recently been reported. It was the first time that sexual assault, rape and enforced prostitution had been widely reported in Afghanistan. Unfair trials and summary detentions had been reported. Officers who refused to participate in the fighting had been denied a trial, detained and executed.

5. Since the formation of the Islamic State of Afghanistan in 1992, many Afghans had been deprived of their right to freedom of religion. In May 1993, participation in congregational prayers had become mandatory. The prohibition of non-Islamic political parties in Afghanistan breached the right to freedom of peaceful assembly and association while the right to freedom of opinion and expression was in peril as many of the newspapers in Afghanistan had come under the control of political factions. Women faced uncertainty as to

whether their limited gains in education and economic status could be preserved, and there had been a breakdown in the traditional respect for women, particularly their physical integrity.

6. If steps were not taken, the situation in Afghanistan could degenerate into unrestricted warfare among armed groups. The geopolitical and humanitarian consequences for the international community would be extremely dangerous.

7. Ms. MARTENSEN (International Movement Against All Forms of Discrimination and Racism) said that persistent violations of human rights in recent years had forced tens of thousands of people to leave Bhutan and seek refuge in Nepal and India. Under a carefully planned depopulation policy, the Government of Bhutan had evicted entire communities of southern Bhutanese, confiscating their property, lands and citizenship documents. Once evicted, the refugees were prohibited from returning, as Bhutan's immigration laws provided that, while Bhutanese citizens had the right to leave their country, once they did so they forfeited their citizenship and could not return.

8. On behalf of her organization, she had visited the refugee camps in eastern Nepal and had received first-hand reports of detentions, torture, rape and eviction by security forces. Her delegation had also met Nepalese officials who had made it clear that their country was not prepared to settle permanently the large numbers of Bhutanese refugees living in Nepal's eastern districts. The Permanent Mission of Bhutan in Geneva had stated that the Government of Bhutan was unwilling to take back most of the refugees, on the grounds that they were not Bhutanese citizens.

9. Her organization urged the international community to interest itself in the issue of Bhutan's biased immigration and citizenship laws. It was essential that outside pressure should continue to be applied to the Government of Bhutan with a view to ensuring the safe repatriation of the Bhutanese refugees.

10. In Pakistan-occupied Kashmir, widespread discrimination against non-Muslim Kashmiris continued. Pakistan governed the Northern Territories as a colony, directly from Islamabad. No elections had been held; there had been no economic development and no proper educational facilities existed. The Pakistani Government was defying the High Court's decision to merge the Northern Territories with the rest of Pakistan-occupied Kashmir.

11. In the rest of Pakistan-occupied Kashmir, people also lacked basic rights and many had been forced to pledge the allegiance of Jammu and Kashmir to Pakistan before they could obtain a job or contest an election. A rape victim had to produce at least four eye-witnesses before her case was even registered.

12. Her organization urged the Sub-Commission to put pressure on Pakistan to protect the human rights of the inhabitants of the Northern Territories. It also suggested that a plebiscite be held in Kashmir under United Nations supervision to enable the Kashmiris to decide their own future.

13. At the last session of the Commission on Human Rights, her organization had made a plea for the safe repatriation of 50,000 Chakma and other tribal refugees to the Chittagong Hill Tracts of Bangladesh and had suggested that the United Nations and other international observers be allowed to monitor the process of repatriation. Recent press releases reported that there was still a large-scale military presence in the Chittagong Hill Tracts and that refugees were not being given their lands and ancestral property upon their return. Her organization thus urged the Sub-Commission to call upon the Government of Bangladesh to permit the presence of international monitoring bodies during the repatriation process and to respect the rights of returnees to their ancestral property and lands.

14. During a first personal visit to Tibet, she had witnessed the extent of encroachment by Chinese businesses on the land surrounding the Dalai Lama's palace. The presence of Chinese settlers was overwhelming and the repression by Chinese forces continued. Indeed most Tibetans were too afraid to share their feelings about the Chinese presence on their territory. Those who dared speak said only how hard it was for them to compete with the Chinese for work or to find educational facilities for their children. During a visit to the Dalai Lama's winter palace, she had learnt that the Chinese had begun to install surveillance cameras throughout the pilgrimage area in order to monitor communications between monks and tourists.

15. Her organization urged the Sub-Commission to follow up on its resolution 1991/10 which called upon the Government of China fully to respect the fundamental human rights and freedoms of the Tibetan people. If left unchecked, the demographic assault created by the massive population transfer of Chinese settlers through Government-sponsored incentives would lead to further human rights violations for Tibetans, if not their annihilation as a cultural identity within their own country.

16. Mr. KANT (Indian Institute for Non-Aligned Studies) said that he wished to bring to the attention of the Sub-Commission a brief case-study of developments in Pakistan, based essentially on the reports of the Human Rights Commission of Pakistan, Jubilee Campaign, Asia Watch and Amnesty International.

17. Pakistan's first Constitution had established the country as an Islamic Republic in 1956. The specific provisions relating to Islam included a requirement that the Head of State be a Muslim. In 1972, the then Government of Pakistan had nationalized many private schools and other property, most of which had been owned by the minority Christians. The Constitutional Amendment of 1974 declared the Ahmadiyah, a religious sect founded in 1889, to be non-Muslims. In 1979 the Government promulgated the Hudood Ordinance which prescribed Islamic punishments for certain criminal offences.

18. According to Asia Watch, government efforts to Islamicize civil and criminal law, which had begun in earnest in the early 1980s, had dangerously undermined the fundamental rights of freedom of religion and expression and had led to serious abuses against the country's religious minorities. State repression of Ahmadiyah had started in earnest with the 1984 Ordinance on

un-Islamic Activities, under which members of the Ahmadiyah community had become liable to prosecution for engaging in many activities associated with Islam.

19. Those laws clearly violated internationally recognized rights of religious freedom and freedom of expression. According to a 1992 Amnesty International report, dozens of prisoners of conscience, including Ahmadiyah, had been imprisoned for practising their faith. Members of the Ahmadiyah community had been sentenced to prison terms solely for the peaceful exercise of their religious beliefs.

20. In 1985, the Objectives Resolution of 1949 which had provided that adequate provision should be made for the minorities freely to profess and practise their religion and develop their culture, had been amended by the deletion of the word "freely". Subsequently a sequence of unfair and unjust laws had been unleashed that were in clear violation of the most basic and fundamental human rights.

21. Among those laws were the blasphemy laws, offences under which were incorporated into the criminal law system in 1986. As a result, a single Muslim witness could have a member of a religious minority executed by accusing the latter of making negative remarks about the Prophet. The blasphemy laws had been used not only against the Ahmadiyah but also against other minority groups such as Christians, who had become in fact the most frequent victims. The pattern showed that the law had become the handiest instrument for minor mullahs to launch themselves into spirited public leadership and into the guardianship of the public conscience.

22. In its 1992 report, the Human Rights Commission of Pakistan had concluded that religious intolerance had found acquiescence, if not active encouragement, in the Government's voluble invocation of Islam. Crimes were committed without fear of official retribution or social disapproval and in the knowledge that any voices of isolated protest would not get far in the prevailing atmosphere.

23. The practical effect of the law of evidence was that a rape, dacoity or murder in a non-Muslim area could go unpunished if there was no Muslim witness to the crime. That law clearly represented a case of discrimination against non-Muslims. The Human Rights Commission of Pakistan had reported that violence against women had continued to get worse; a woman was raped every three hours, every other one being a minor, and every fourth one was gang-raped. In an increasing number of cases, influential persons were involved in the crime.

24. The Qisas or Compensation Ordinance provided that, in incidents that involved payment of compensation, a non-Muslim would be paid only half the amount that a Muslim would receive for the same incident. In 1985, a system of separate electorates had been incorporated into the Constitution and discriminated severely against minorities by depriving them of their full right to vote.

25. In the view of his organization, those laws violated articles 2, 5 and 18 of the Universal Declaration of Human Rights. The developments which he had

outlined might reasonably be regarded as constituting a consistent pattern of violations of human rights and fundamental freedoms in Pakistan. His organization looked forward to the Commission and the Sub-Commission taking up positions on that issue, on the basis of their respective mandates.

26. Mr. AHMAD (World Muslim Congress) said that the State of Jammu and Kashmir was probably the only area in the world under full and gruesome colonial rule, where the occupying Power was engaged in the worst kind of State repression and terrorism.

27. The current protest of Kashmiris was against the denial of their right to self-determination and against the gradual subversion by India of its formal undertakings that the 1947 Indian occupation of Kashmir was a temporary measure and that India would vacate Jammu and Kashmir if the people of the State, in an impartial plebiscite, decided not to remain with India. Those undertakings had clearly been given with the ulterior motive of buying time to consolidate India's administrative and military hold on the occupied territory.

28. The agreement that India imposed on the State at the time of occupation had given it powers, until the results of a plebiscite under United Nations supervision were known, over only three matters, namely, defence, foreign affairs and some aspects of communications. The gradual erosion of that position had continued over the past 47 years. Elections held in the Kashmir Valley under the constitutional provisions unilaterally imposed by India were invariably rigged so as to give India a free hand to consolidate its hold.

29. Demands for the implementation of United Nations resolutions on the right to self-determination had become a criminal offence, punishable with long periods of imprisonment. India had continuously played off one Kashmiri political faction against another and had prevented the election of legitimate representatives of the Kashmiri people to the legislature.

30. The 600,000-strong Indian Army and paramilitary forces concentrated in Kashmir had engaged in a persistent campaign of terror and massive ruthless repression against the 5 million people of the Valley of Kashmir. Indian soldiers violated human rights with impunity. There was overwhelming evidence of torture of detainees, extrajudicial and summary executions, reprisal killings, disappearances, theft and indiscriminate shooting in crowded markets.

31. The soldiers also engaged in large-scale arson, destruction of the food stocked by families for use during the winter months and perpetrated indiscriminate gang-rape on Kashmiri Muslim women. Undercover squads killed prominent Kashmiris with the intent to destroy the top leadership. There was relentless decimation and ruthless persecution of Kashmiri Muslims, particularly young men. Indian security forces regularly harassed doctors and medical staff, indulged in body searches of women doctors and deliberately destroyed medical equipment and supplies. There was not a single family in occupied Kashmir which had not suffered from the persecution and virtually every Kashmiri had become alienated from India. During the past four weeks, Indian forces had killed an average of 20 persons per day.

32. There were only two aspects to the problem. One was the status of the State of Jammu and Kashmir. His organization affirmed that, in international law, the State was not a part of India. Its status had still to be determined in accordance with resolutions of the Security Council and India must stop obstructing the process. One solution might be for the matter to be referred to the International Court of Justice.

33. The other aspect was the magnitude of the extensive, persistent, grave and large-scale violations of humanitarian law and human rights in Kashmir by Indian armed forces, with impunity and under the full authority of the Government of India. The Sub-Commission might try to find the facts for itself through, for example, the appointment of impartial assessors. Kashmiris were entitled to international protection under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. The Sub-Commission must act.

34. Ms. BATZIBAL TUJAL (International Indian Treaty Council) said that many of the States which had ratified the International Covenants on Human Rights and the human rights conventions continued nevertheless to violate human rights and fundamental freedoms. If the international community did not use the relevant international machinery to put pressure on those States, they would persist in such violations in the belief that their behaviour was acceptable.

35. She regretted to report that, one year after the adoption by the Sub-Commission of its resolution 1993/12 on human rights violations in East Timor by the Government of Indonesia, there had been no improvement in the situation. Detentions and torture continued to be part of daily life for the Timorese. On 14 July 1994, hundreds of people participating in a peaceful demonstration had been brutally attacked by the armed forces with 3 deaths and 20 injured.

36. Grave and systematic violations of human rights continued to take place in Sri Lanka and she urged the Sub-Commission to adopt a resolution which would appeal to the authorities to end the blockade and respect human rights and fundamental freedoms; and invite the parties to initiate negotiations with a view to ending the armed conflict. The Sub-Commission must also continue to monitor the situation of human rights and fundamental freedoms in that country.

37. Her organization was also greatly concerned at the continuing violations of human rights and fundamental freedoms in Colombia, particularly the assassination of 16 indigenous people between January and March 1994. It hoped that the Sub-Commission would request the Commission on Human Rights to appoint a special rapporteur for Colombia.

38. In Guatemala, notwithstanding the prohibition of compulsory military service contained in the Global Agreement on Human Rights signed on 29 March 1994, there had been large-scale military recruitment on a national basis at the end of May. Hundreds of Mayas had been conscripted into the armed services. There had also been a wave of political violence and murders following the signature of the Global Agreement.

39. In view of the serious situation regarding the human rights of the Mayas and of the Guatemalan people as a whole, her organization urged the Sub-Commission to adopt a resolution requesting the immediate implementation of the agreements signed by the Guatemalan Government on human rights and on the resettlement of persons displaced by the internal armed conflict and the immediate establishment of the international verification commission; supporting the continued work in Guatemala of the independent Expert; encouraging the parties to continue the negotiating process in order to achieve a firm and lasting peace; and supporting the agreement of 10 January 1994 on the resumption of the negotiating process between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca.

40. Mr. CHANGALA (Service Peace and Justice in Latin America), also speaking on behalf of the Latin American Federation of Associations of Relatives of Disappeared Detainees, said that the first case he wished to consider was that of Colombia. The new Constitution of 1991 had meant an important step forward from the standard-setting viewpoint in terms of the enshrinement of rights and the creation of protection mechanisms. However, the changes had occurred only at the level of the constitutional text and had not meant a cessation of flagrant violations of human rights.

41. Between January 1993 and March 1994, six people had been assassinated daily in Colombia; every two days a person had "disappeared" for political reasons. The Government's response had been to strengthen the impunity of the human rights violators, demonstrating a lack of political will to confront and resolve the grave human rights crisis. On 9 August 1994, Senator Manuel Cepeda Vargas had been assassinated for obvious political reasons related to attempts to exterminate all the members of the Patriotic Union, a left-wing political group. The Sub-Commission should adopt a strongly worded draft resolution on Colombia and designate a special rapporteur on that country.

42. In Guatemala, the right to life continued to be violated, and forced disappearances were a constant occurrence. Over the past six months, between 21 and 30 cases of disappearances had been reported. Hundreds of clandestine cemeteries had been discovered containing the remains of women, children and old people. An international verification mission should be established to monitor compliance with the Global Agreement on Human Rights.

43. In the case of Haiti, the organizations he represented were deeply concerned at the prospect of any type of armed "solution". Latin America had already had too many unfortunate experiences of that kind.

44. He called upon the Sub-Commission to take action to free the remaining 526 missing Saharans in Morocco. Action should also be taken to ensure that the referendum on self-determination took place in 1995.

45. Steps must also be taken to end the armed conflict in Sri Lanka between the Government and the Tamil organizations confronting it. Likewise, the Sub-Commission should examine the difficult situation in Bhutan where, as a result of the persecution of the population of the southern part of the country, a considerable number of people had fled into exile.

46. Mr. ZUÑIGA (Service Peace and Justice in Latin America), having given an eyewitness account of the human rights situation in Peru, called for the appointment of a special rapporteur for that country and for the situation in Peru to be included in the agenda of the next session of the Commission on Human Rights.

47. Mr. KOTHARI (Habitat International Coalition) said that forced evictions constituted a gross and systematic violation of human rights. Their causes included the continued shortsighted belief of Governments in free-market policies and subsequent rampant speculation in land; the dilution of protective rent, housing and land legislation; the increasing dominance of global economic, trade and patent regimes; the persistence of debt problems and the adoption of economic adjustment policies; growing disparities in wealth and the increasing appropriation of land and natural resources.

48. Most of the cases of dispossession and uprooting of people from their homes that his organization had been bringing to the attention of the Sub-Commission for the past three years involved forced evictions of people and communities carried out without prior warning, negotiation, compensation or the provision of alternative housing and without clear cause being shown or reasonable justification offered. Those affected had no recourse to legal systems and did not qualify for "refugee" status. They had nowhere to go, no institution to turn to and were forced to live wherever they could.

49. He could cite examples from various countries to illustrate the fact that development policies, economic regimes and unbridled market forces led to degrees of violence against people and communities not very different from those faced in times of war and ethnic conflict. As far as the affected people were concerned, the destruction of home, family, community, identity, skills and culture was the same.

50. In India, the Sardar Sarovar dam in the Narmada Valley threatened to displace at least 200,000 people and had already led to the submergence of several villages. Most of the people evicted in the current year, in violation of a Supreme Court order, had been provided only with makeshift shelters and were living in appalling conditions. The evictions had been accompanied by systematic harassment and the imprisonment of activists and villagers resisting them. In Bihar, an Indian Army firing-range would result in the forced evictions of 235,000 tribals. The Sub-Commission should remind the Government of India of its obligations under international law.

51. In East Jerusalem, 210 Palestinian homes had been demolished by the Israeli authorities since 1986. Such demolitions resulted in far-reaching social difficulties such as living in tents, psychological problems and a halt to children's education. Given the rapid expansion of the Jewish settlements in East Jerusalem and the resulting increase in the confiscation of Palestinian land and the demolition of Palestinian homes, the housing situation of Palestinians needed to be addressed immediately. Otherwise, when the status of Jerusalem was negotiated in two years' time, there would be a fait accompli.

52. The Bhutanization of the southern part of Bhutan was still continuing, entire villages being cleared and their inhabitants being forced to sign so-called "voluntary migration forms". One sixth of the country's population was living in exile as refugees.

53. In the capital of the Dominican Republic, 20,000 families were currently threatened with eviction, 12,000 of them having lived under that threat for more than three years, with a prohibition, enforced by the military, on the construction of any new houses or the repair of existing structures. The result had been serious health and hygiene problems.

54. In the Philippines, various government projects were currently threatening the eviction of 47,000 families, while at least 10,000 Tibetans in Lhasa faced the demolition of their homes under the 1980 Lhasa Development Plan approved in Beijing. More than half of all Tibetan housing in Lhasa had been demolished by the Chinese Government since 1987.

55. Ms. SCHWARZ (Inter-Parliamentary Union) said that her organization had been saddened by the assassination of Senator Manuel Cepeda Vargas in Colombia. His murder, the latest of six murders of parliamentarians in that country since 1986, vindicated the fears which had been expressed regarding the dangers of the de facto impunity enjoyed by the perpetrators of such crimes. Investigations of the assassinations had quickly run out of steam and it seemed that the culprits would go unpunished.

56. Her organization had repeatedly emphasized the duty of the Colombian authorities to elucidate the murders. It called for the murderers of Senator Cepeda Vargas to be brought to justice and reaffirmed that the murder of a parliamentarian, if allowed to go unpunished, affected not only the parliamentarians themselves but everybody they represented.

57. Mr. GEBRIEL (World Federation of Democratic Youth) said that the Sudan was going through a very difficult period in its history. A military dictatorship had seized power in 1989, abolishing the Constitution, dissolving the elected assembly and the Government, effectively banning all political activity or debate and arresting thousands of political opponents. In December 1993, the United Nations General Assembly had, on the basis of the preliminary report of the Special Rapporteur on the Sudan, overwhelmingly condemned the serious human rights violations in that country, which continued unabated. The civil war in the south of the country had intensified and assumed the nature of a "holy war" against non-Muslims.

58. Among specific cases to which attention needed to be drawn was that of Mr. Bushra Abdel Karim, Secretary-General of the Sudanese Youth Union, who had been arrested with a number of political activists in late May 1994. No charges had been brought and his whereabouts were still unknown. It was likely that he had been interrogated under torture. Another case was that of the ex-Prime Minister, Mr. El Sadig El Mahdi, arrested on 21 June 1994 along with other leaders of his party.

59. The widespread use of torture, both as an interrogation technique and as a punishment for alleged crimes, had been well documented by the Special Rapporteur. Among many other such cases were those of Dr. Ali Fadul, who had

been active in the Doctors' Union and had died as a result of torture in a secret detention centre in Khartoum; and Muhamed A. Al-Rayah, a former army officer who had reported being beaten, tortured and sexually abused by security officers. In addition to the various forms of torture, political detainees held in so-called "ghost houses" suffered severe deprivation of food and water.

60. The many abuses which had so far been documented were fundamental violations of the obligations of Sudan under the terms of the international human rights instruments to which it had acceded. His organization called on the Sub-Commission, the Special Rapporteur on Sudan and the Commission on Human Rights to do everything in its power to secure the release of Mr. Bushra Abdel Karim.

61. His organization was also extremely concerned at the grave human rights situation in Colombia. It called on the Commission on Human Rights and the Sub-Commission to bring all its influence to bear to ensure that the recent killing of Senator Manuel Cepeda Vargas was properly investigated and those responsible brought to justice.

62. Mr. RETUREAU (World Federation of Trade Unions), said that Colombia remained the most dangerous country in the world for trade-union activists, many of whom had been murdered, in most cases by members of paramilitary groups operating with apparent impunity. Investigations into the murders and "disappearances" had been fruitless and the authorities' own attempts to restrict freedom of association and the right to strike and to dismiss union activists encouraged such attacks. The situation was sufficiently grave to justify calling on the Commission to appoint a special rapporteur to report on the situation under its agenda item 12.

63. The situation was similar in other countries in the region, such as Peru and Guatemala. In Guatemala, death squads continued to carry out arbitrary detentions, torture and murder, despite the change of Government. The repression was a systematic attempt to break all resistance to IMF-sponsored economic adjustment programme and to protect the interests of landowners and businesses.

64. In Turkey, where a "total war" was being waged by the authorities against Kurdish nationalists, six Kurdish members of Parliament had been put on trial for allegedly supporting the cause of the separatist PKK, although no serious evidence had been put forward. The trial was a travesty of justice, reminiscent of the trial of the leaders of the trade-union congress DISK, who had remained in "pre-trial" detention for a number of years before ultimately being acquitted. Only negotiations on the Kurdish question could lead to a just and enduring solution. He noted that there was still no freedom of association in the Turkish civil service.

65. In Germany, too, freedom of opinion in the civil service appeared to be severely restricted. More than a thousand teachers had been dismissed in Thuringia in the last three years as a result of their political and trade-union affiliations, and similar things were happening in the other new Laender. All civil servants were denied the right to strike that was recognized in the international instruments, and the practice of barring

individuals from the practice of their profession on political grounds did no credit to the country, given the general increase in intolerance and racist attacks.

66. In Iran, against a background of ever more flagrant attacks on human rights, there was no freedom of association whatever, the only recognized trade unions being authorized Islamic workers' associations which were tools of surveillance and control. Strikes and demonstrations were harshly repressed at home, while the Government had ordered the assassination of dissidents abroad. It had also been implicated in various acts of State terrorism, including, perhaps, the recent attack in Buenos Aires.

67. In Nigeria, the military authorities had repressed strikes or demonstrations and imprisoned Mr. Abiola, the winner of the Presidential Election. There, as in other African countries, unions were an important factor in establishing democracy but the policies of economic adjustment imposed by the IMF and the World Bank seriously undermined any hope of democratic Government. The tragedies unfolding in many other African countries, which had led to a social and economic collapse and massive human rights violations, called for the establishment of efficient preventive measures and for a fundamental review of the policies of GATT and the Bretton Woods institutions.

68. The human rights situation in many other areas of the world was no less serious, although there were some grounds for cautious optimism in South Africa and, indeed, in Morocco, where a trade-union leader had recently been freed and an amnesty announced for 400 political prisoners. However, that amnesty did not apply to those supporting self-determination for Western Sahara, and his organization called for the release of all such political prisoners in Morocco.

69. Mr. FAI (International Islamic Federation of Student Organizations), said that, in 1948, the Government of India had agreed that Kashmir should exercise its right to self-determination, but the numerous resolutions passed to that effect by the Security Council had yet to be implemented and Kashmir remained occupied by Indian forces. Amnesty International had drawn attention to massive human rights violations, including the detention of thousands of political prisoners and the routine use by Indian security forces of torture at so-called "interrogation centres". Among the many abuses had been the abduction between 7 and 8 August 1993 of 228 young Kashmiris.

70. While the deliberate campaign of terror waged by the Indian authorities showed no sign of abating, the leaders of the Kashmiri people remained hopeful that a peaceful solution would eventually be found and had combined to form the All Parties Hurriyet Conference (APHC) which was committed to achieving a peaceful negotiated settlement through a tripartite dialogue. In spite of that commitment, three APHC leaders, Syed Ali Geelani, Shabbir Ahmad Shah and Abdul Gani Lone, were still being illegally held in detention, although they were not terrorists.

71. The need to achieve a peaceful settlement was all the more urgent, in that the region was densely populated, of considerable strategic importance and might become the focus of a nuclear confrontation. The Sub-Commission

could help by actively encouraging the three parties to the conflict to engage in dialogue. He urged the Sub-Commission to bring all its influence to bear to put an end to the continuing defiance by the Indian authorities of international human rights law and to call upon the Security Council to take all the necessary steps to implement its own resolutions.

72. Mr. GONZALEZ (Observer for Colombia) said that his Government was determined to promote the observance of human rights in Colombia and drew attention to a number of specific efforts being made in that regard, in the face of widespread violence against the State and civilian population by guerrilla groups and drugs traffickers.

73. With regard to "enforced disappearances", the National Congress was considering a bill which would provide for prison sentences of up to 40 years for anyone found guilty of illegally detaining or concealing the whereabouts of a person or for anybody guilty of attempting to sabotage the investigation of such a crime. Public officials found guilty of such offences would be liable to longer sentences, and no pardon or amnesty could be granted under any circumstances for crimes of that nature. A follow-up commission would be established, comprising two congressmen, the Attorney-General, the Public Defender, the Presidential Adviser on Human Rights and three NGO representatives. Another bill, to ratify the Inter-American Convention on Enforced Disappearances adopted in July 1994 at Belem, Brazil, was also before Congress. The Convention had been signed on 5 August 1994 by the Colombian Ambassador to the OAS.

74. With regard to the demobilization and reintegration of guerrilla groups, the Government had granted access to Congress of two members of the Corriente de Renovación Socialista for the period 1994-1998. In June 1994, agreement had been reached on the demobilization of the Frente Francisco Garnica. To facilitate those processes of reintegration, judicial benefits would be granted by a recently created operative committee to persons willing to demobilize.

75. An inter-institutional Commission had been created to propose appropriate reforms to the Military Penal Code. According to the Attorney-General's proposals, a future procedural code would facilitate victims' participation in the proceedings and would incorporate an accusatory system. The Constitutional Court had, in fact, already ruled that anyone not satisfied with a given version of a death or a disappearance could demand further investigation from the State.

76. With regard to the penal system, a Human Rights Permanent Committee was drafting recommendations with a view to preventing human rights abuses in the La Picota prison, and similar action would be taken for all other prisons.

77. In the area of police reform, a High Commissioner for the Police had been appointed to monitor disciplinary conduct. To date, he had ordered the removal of nearly 6,000 policemen, 150 officers and 200 non-commissioned officers.

78. In the area of education and training, the Public Defender had developed a "qualification programme" of instruction in human rights to be followed by

members of the armed forces throughout the country. It was intended that such instruction should become part of every police or military training programme.

79. Of all the difficulties faced by the Government, the apparent immunity of human rights violators was probably the most intractable. There had, however, been some notable successes, including the prosecution and sentencing in July 1994 of 18 military officers on charges of murder.

80. With regard to collaboration with international human rights bodies, the Representative of the Secretary-General on the question of internally displaced persons had visited the country at the Government's invitation and had been able to speak to a wide range of individuals and organizations including NGOs involved in finding solutions to the problem in question. Valuable information had been gathered and further dialogue promoted among those concerned. Other planned visits were those of the United Nations High Commissioner for Human Rights and the Special Rapporteur on extrajudicial, summary or arbitrary executions. They would both be able to count on the full support and cooperation of his Government.

81. Another important development had been the recommendation by the outgoing Government to Congress, endorsed by the Commander in Chief of the Armed Forces, that it should ratify Protocol II additional to the Geneva Conventions.

82. Another important factor in curbing the violence had been the weakening of the major paramilitary groups which, with their connections to drugs trafficking, had maintained a stranglehold on the country. According to some estimates, those groups, whose activities had been explicitly and repeatedly condemned by the authorities, had accounted for one third of all political violence in 1988. That figure had since fallen to 17 per cent.

83. In accordance with the recommendations made by the international human rights organizations, his Government had undertaken to place before Congress a bill on the payment of compensation to victims of human rights violations and to bring domestic law in that respect into line with international law.

84. Ms. ANDREEVSKA (Observer for the Former Yugoslav Republic of Macedonia) said that it was regrettable that, 50 years after the adoption of the Universal Declaration of Human Rights, violations of human rights and fundamental freedoms were still widespread. Two hundred years previously, the United States Declaration of Independence had proclaimed the right of individuals to equality, freedom and the pursuit of happiness, the right to choose their own form of government, and the right of every nation to equality with every other nation. That principle was especially relevant in view of the events in the former Yugoslavia.

85. It was unfortunate that, despite the efforts made by the United Nations to combat discrimination in all its forms, racism was still as prevalent as ever and had led to all manner of exploitation and exclusion which, in turn, created bitterness and impeded any attempts to achieve mutual understanding between peoples. In that context, it was especially important that the efforts being made to put an end to ethnic cleansing should continue.

86. Mr. WEERAKOON (Observer for Sri Lanka) said that he wished to give the Sub-Commission some up-to-date information on the action taken in relation to the programme of work outlined by his Government at the fiftieth session of the Commission on Human Rights. The important measures proposed included certain amendments to the Emergency Regulations then in force so as to bring them into line with accepted international practices concerning, in particular, arrest and detention. He was pleased to inform the Sub-Commission that his Government had, in fact, initiated the necessary amendments to the Emergency Regulations. Judicial intervention had been provided for within a reasonable time-limit in cases of pre-trial detention, and increased penalties had been provided for in respect of public officials who infringed the procedural safeguards incorporated in the Regulations.

87. Fortunately, however, those amendments were no longer relevant, since the state of emergency had been lifted on 14 July 1994 and the normal laws and legal processes were operating throughout the country after a lapse of almost five years. Moreover, a bill providing for the registration of deaths of persons reported missing and believed to be dead had been approved by the Cabinet on 8 June 1994, and legislation had been approved to give effect to the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Sri Lanka had acceded in December 1993.

88. The Parliament which had been elected in February 1989 had been dissolved and elections had been called for 16 August 1994. They would take place in an atmosphere free from the constraints of the Emergency Regulations. A free and fair election monitored by international observers was intended, with 13 political parties, including 5 parties representing the Tamils, and 26 independent groups contesting the 225 seats. For the first time in a number of years, voters in the islands off the Jaffna Peninsula and cleared areas of the mainland would be able to participate, except for a small area in the Jaffna Peninsula still under the armed control of the LTTE. Over 10 million voters of all ethnic groups would thus be able to exercise their right to elect a Government of their choice.

89. Periodic elections had, in fact, been a feature of the Sri Lankan polity and, in spite of the security threats posed by the LTTE insurgency, elections had been held over the last two years at the local and provincial levels. The Presidential Election was scheduled for November 1994.

90. The situation in the Northern Province with regard to supplies and services had also improved. Food, fuel and medicine were being sent to the North at Government expense with the assistance of the International Committee of the Red Cross (ICRC), and private trade channels had also been reopened. In accordance with the undertaking given by his delegation at the fiftieth session of the Commission on Human Rights, instructions had been issued to all relevant authorities to ensure that effective steps were taken to prevent injury to innocent civilians and damage to civilian property in the course of military operations against terrorists. Recent reports from the Jaffna Peninsula confirmed that the situation of civilians caught up in the crossfire had improved significantly.

91. The return of displaced persons to their former places of residence had continued apace. The number of voluntary returnees from southern India was more than 40,000. The improved security situation had also resulted in the return to Sri Lanka of so-called asylum-seekers whose claims had been rejected by Western Governments. The agreement on the return of rejected asylum-seekers reached with the Swiss Government had become operative, and arrangements had been made for them to be reintegrated into the community. A feature of the transitional arrangements made for such returnees was the role performed by the local Red Cross societies and UNHCR. The return to Sri Lanka of citizens whose claims for asylum had been rejected might, of course, lead to agitation by groups that had an entrepreneurial interest in the "refugee issue" and which might maintain that the security situation was not yet normal. Indeed, some speakers at the current session of the Sub-Commission had attempted to make just such a point. Both Sri Lanka and the countries harbouring "economic refugees" would need to be wary of such disinformation campaigns.

92. At the height of the security crisis in 1989 and 1990, reported disappearances had caused serious concern and had led to the creation of new mechanisms and procedures to eliminate the problem. The measures taken by his Government had resulted in a rapid decline of the phenomenon, and there had been only three cases of reported disappearances in the period from January to June 1994, one of which had already been clarified by the Presidential Commission inquiring into involuntary removals.

93. Two other areas of marked improvement had been the favourable environment provided to the media and the renewed momentum of NGO activity.

94. Efforts were being made to seek a negotiated political solution to the problems affecting the North and East of the country. It could be stated with confidence that the moment appeared propitious for that goal to be realized. Both the governing party and the main opposition group had, in their respective election manifestos, not only given the resolution of the conflict the highest priority but had also laid before the electorate the outlines of the manner in which a negotiated political solution should be effected. That bipartisan consensus held promise of an early resolution of what had been an intractable problem. The popular mandate that was expected to emerge from the forthcoming parliamentary elections could well herald the much-awaited breakthrough.

95. Sri Lanka was committed to an open and constructive dialogue with the United Nations system and other humanitarian and human rights organizations. Its cooperation was made clearly evident by the invitations extended to working groups and special rapporteurs of the Commission on Human Rights, by its ongoing agreements with UNHCR and ICRC, and by its policy of collaboration with NGOs such as Amnesty International, Human Rights Watch and Médecins sans Frontières. As recently as July 1994, his Government had been able to make a further contribution to the global promotion of human rights by hosting a highly successful regional seminar on traditional practices affecting the health of women and children.

96. He had no doubt that the Sub-Commission would agree that the human rights situation in Sri Lanka had improved significantly in recent months and that

the momentum was continuing. His Government looked forward to reporting further progress to the Commission on Human Rights at its fifty-first session.

97. Mr. MAJDI (Observer for Morocco) said that developments in the human rights situation in his country had recently culminated in an amnesty. Determined to turn over a new page on the "political prisoner" issue, the King had invited the Advisory Council on Human Rights, consisting of representatives of all the political parties, trade unions and all components of civil society, to study the cases before it and to submit a list of detainees with a view to the granting of an amnesty. After examining all the lists submitted to it by various NGOs, both national and international, the Council had decided unanimously on a list of 424 persons, who had benefited from the amnesty in July 1994 and had recovered, immediately and in full, their freedom and civil and political rights. That decision also extended to exiles, both voluntary exiles and those who had fled prosecution.

98. Instructions had been given to the frontier police and to the diplomatic and consular services to facilitate the return of the exiles, which was going ahead quite normally and so far no complaint had been recorded. The amnesty had been unanimously welcomed by the national press, the political parties, trade unions and human rights organizations.

99. The new phase on which Morocco was entering capped a series of concrete actions already taken to promote human rights, including those relating to the establishment of the Advisory Council on Human Rights in 1990, of a ministry responsible for human rights, headed by the former General Secretary of the Moroccan Organization for Human Rights in 1993, and the institution of administrative tribunals in 1993.

100. During the same period, the Moroccan legislature had adopted new laws and abrogated others in order to adapt legislation to human rights requirements, particularly those relating to custody. In parallel with those efforts, Morocco had in 1993 ratified four of the most important human rights conventions - namely those relating to children, women, migrant workers and torture, in addition to the international human rights conventions and covenants to which it had already been a party.

101. Morocco, as provided for in its revised Constitution of 1992, reiterated its commitment to human rights and was determined to establish and reinforce domestic structures compatible with the protection and promotion of civil, political, economic, social and cultural rights and to defend those rights throughout the world, wherever they were flouted or ignored.

102. His delegation was still very concerned about the fate of kidnapped Moroccan citizens held in Frente POLISARIO camps and wished to denounce the serious violations of human rights committed in those camps and the cruel and inhuman treatment to which Moroccan citizens were exposed there. They did not enjoy even the most elementary rights of freedom of movement and expression. The Frente POLISARIO subjected all the camp inhabitants to very strict police control. Authorizations to leave the camps were given sparingly, and a beneficiary of that rare privilege could not be accompanied by his family, which was held hostage to guarantee his return.

103. If he chose to defy the Frente POLISARIO jailers and return to Morocco, his family was subjected to the most bestial torture and many survivors bore for ever the indelible traces of the cruelty inflicted upon them. As far as freedom of expression was concerned, only the Frente POLISARIO creed was admitted, and any contrary opinion was bloodily suppressed or punished by death or mutilation. The most tangible proof of that was the barbaric repression of the demonstrators who had dared in 1988 to face up to the Frente POLISARIO in the camps and demand their return to Morocco.

104. The Frente POLISARIO had traded on the sufferings and poverty of kidnapped Moroccan citizens, and its leaders were enriching themselves at the expense of innocent people, since the assistance and gifts supplied by humanitarian organizations were being systematically diverted and sold. Deeply convinced that the populations of the camps, who had already voted with their feet by attempting to flee to Morocco, would not hesitate for one moment to abandon it, the Frente POLISARIO was increasing its manoeuvres and obstacles with a view to opposing the referendum. The Secretary-General's recent report found that the Frente POLISARIO had maintained its reservations concerning some key provisions of his compromise proposal regarding the application and interpretation of criteria.

105. His Government thus requested the Sub-Commission to use all means available to it to shed full light on the sufferings of Moroccan citizens in the Frente POLISARIO camps and all human rights organizations to conduct inquiries with a view to making public the human rights violations perpetrated by the leaders of the Frente POLISARIO and their myrmidons.

106. Mr. URRUTIA (Observer for Peru) said that, on many occasions, his Government had reiterated the central importance of the right to development in the promotion and protection of human rights and had constantly advocated the need to strike a balance between the treatment of civil and political rights on the one hand and of economic, social and cultural rights on the other.

107. Accordingly, in recent years, his Government had drawn the international community's attention to the role of terrorism as a violator of human rights and an obstacle to the development of democratic societies, as recognized in General Assembly resolution 48/122, Commission on Human Rights resolution 1994/46, and Sub-Commission resolutions 1993/13 and 1993/23. When his Government affirmed that terrorism violated human rights, it did so with good knowledge of the facts: the substantial economic damage caused, the generalized feeling of fear and defencelessness, the paralysis of the judiciary, the thousands of orphans and widows, the massacres of indigenous populations and the mass kidnappings. In short, the whole country had lost 14 years of opportunities as a result of terrorist violence.

108. However, the situation in Peru had changed. Terrorism was being defeated as a result of a complex process of pacification which, in addition to its military component, included a whole series of actions in the political, economic, social and legal fields. His Government was, however, aware that excesses had occurred in the past and that certain isolated human rights problems persisted, but it had proclaimed its will to find appropriate

solutions to them within a comprehensive national pacification policy, the ultimate objective of which was to lay the foundations for a proper development of Peruvian society.

109. In a continuous endeavour to correct negative situations, his Government considered constant cooperation with the Centre for Human Rights and other international and regional human rights mechanisms to be a fundamental part of its policy. The Centre for Human Rights had thus been kept informed of the improvements that had taken place in Peru, as recognized in the reports submitted to the Commission on Human Rights at its fiftieth session by the Working Group on Enforced or Involuntary Disappearances and the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions. The irreversible improvement had also been acknowledged by international human rights organizations and by national and foreign NGOs.

110. Evidence of the improvement was to be found in the fact that the Working Group on Enforced or Involuntary Disappearances had received 112 complaints regarding Peru in 1992, 10 in 1993 and only 3 so far in 1994, 2 of which had already been clarified. The Working Group's most recent report showed that, of the 98 cases clarified during 1993, 97 had been clarified on the basis of information supplied by the Government.

111. At his Government's invitation, the Special Rapporteur on extrajudicial, summary or arbitrary executions had visited Peru from 24 May to 2 June 1993. The Special Rapporteur's report confirmed the reduction in complaints concerning alleged summary executions from 74 in the first quarter of 1992 to 19 in the same period of 1993. In 1994, he had so far received only 9 complaints, all of which were being investigated.

112. The report of the Working Group on Arbitrary Detention to the Commission on Human Rights at its fiftieth session contained a decision on a detention in Peru that it considered to be arbitrary. After a careful assessment of the case, his Government had released the detained citizen in question.

113. It should be emphasized that his Government considered it a duty to investigate all those persons suspected of participating in terrorist activities. However, it was aware that, in the context of the anti-terrorist legislation in force, some legal errors might have been committed and that innocent persons might have been involved in the proceedings. In that connection, special mention should be made of the recent adoption by Congress of an Act establishing a commission to examine and assess the cases of citizens subjected to allegedly unjust detention under the legislation currently in force.

114. In addition, his Government, in the light of the progress made towards national pacification and in response to recommendations made by national NGOs, had begun in 1993 to amend the anti-terrorist legislation by the adoption of Decree-Law No. 26248, which, inter-alia, restored the rights of habeas corpus and amparo for persons accused of terrorism and treason, repealed the provision which permitted sentencing in absentia, and abolished the rule under which a lawyer was not allowed to act on behalf of more than one person being tried on a charge of terrorism.

115. A Special Commission of the Lima Bar Association was currently analysing possible amendments to the anti-terrorist legislation in matters relating to the criminal and procedural law and the serving of sentences. The Commission's final report would be submitted to Congress in the near future so that the necessary changes could be made.

116. The report submitted by the Special Rapporteur on the question of torture to the Commission on Human Rights at its fiftieth session contained only six cases of alleged torture in 1993. In 1994 so far, the Special Rapporteur had transmitted one complaint, which was being investigated. In any case, Peru was giving priority attention to the eradication of torture. The Government had established a Multisectoral High-Level Commission to prepare its report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which would cover, in addition to the various legal aspects, all the specific cases reported by the Special Rapporteur. The report which would shortly be submitted, took up the recommendations of the Committee against Torture and of the most important national NGOs.

117. His Government's efforts were aimed at achieving a broad respect for civil and political rights without overlooking the foundation of economic, social and cultural rights. The statement made by the representative of one NGO was incorrect, possibly as a result of disinformation, since it related to problems concerning impunity, relations with ICRC and habeas corpus that had already been resolved.

118. Over the past 14 years, terrorism had been the major obstacle to the development of the Peruvian people. The campaign against poverty currently had priority. His Government requested that, in view of the worldwide proportions which terrorism had assumed, the Sub-Commission should, pursuant to Commission resolution 1994/46, initiate a study on the ways in which terrorism violated the human rights of peoples.

119. Mr. KHOURY (Observer for Syria) said that the Israeli presence in the Occupied Arab Territories had continued for a quarter of a century. Special commissions of investigation had drawn attention to the worsening situation there, where human rights were being violated on a large scale. A climate of terror reigned as a result of the Israeli policy of settlement and the punishment of Palestinian resistance fighters. His delegation called for an end to such practices and respect for the Fourth Geneva Convention.

120. Some political prisoners had been released, but more arrests were being made, while some persons were being tortured. The International Commission of Jurists had reported that justice had been distorted and confidence lost since the signing of the PLO-Israel Agreement. Repressive laws were still in force, and the principles of international law were still being violated.

121. The occupation of the Golan Heights had caused many of its inhabitants to leave. Israeli settlement continued, but the population was maintaining its resistance. In southern Lebanon, Israel continued to violate human rights, abducting citizens and bombing villages. The problems in the Occupied Arab Territories could be resolved and a lasting peace achieved only by giving

equal rights to all. His delegation hoped that the Sub-Commission would continue to condemn Israeli practices and would call upon Israel to comply with United Nations decisions and the Fourth Geneva Convention.

ELIMINATION OF RACIAL DISCRIMINATION

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION

(b) MONITORING THE TRANSITION TO DEMOCRACY IN SOUTH AFRICA (agenda item 5) (continued) (E/CN.4/Sub.2/1994/L.3 and L.4)

122. After a procedural discussion in which Mr. CHERNICHENKO, Mr. GUISSE, Mr. ALFONSO MARTINEZ and Mr. LINDGREN ALVES took part, the CHAIRMAN said, with regard to the consideration of draft resolutions, that there would be no introduction, unless one of the sponsors particularly wished to make one. The Chairman would ask whether a vote on a particular text was required; if no one responded, the draft resolution would be deemed to have been adopted by consensus. Secret ballots concerning draft resolutions on country situations would have to be formally proposed.

Draft resolution on measures to combat racism and racial discrimination and the role of the Sub-Commission (E/CN.4/Sub.2/1994/L.3)

123. The draft resolution was adopted by consensus.

Draft resolution on monitoring the transition to democracy in South Africa (E/CN.4/Sub.2/1994/L.4)

124. The draft resolution was adopted by consensus.

The meeting rose at 6.p.m.